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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,643

11/12/2003

Timothy Patrick Kelliher

133690

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03/02/2009

GENERAL ELECTRIC COMPANY

GLOBAL RESEARCH

PATENT DOCKET RM. BLDG. K1-4A59

NISKAYUNA, NY 12309

EXAMINER

HAYLES, ASHFORD S

ART UNIT

PAPER NUMBER

3687

NOTIFICATION DATE

DELIVERY MODE

03/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/706,643

Examiner

Ashford S. Hayles

Applicant(s)

KELLIHER ET AL.

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-845)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

#### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 18, 2008 has been entered.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13- 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sorenson (PG PUB. 2004/0111454) in view of Otto et al. (PG PUB. 2002/0113123).

As per Claims 13 and 18, Sorenson discloses a monitoring system and method comprising:

a tracking mechanism comprising (Figure 1, Tracking System 36):

a shopper tracking component comprising a video surveillance system (Figure 3, Cameras 78a-78d) to track a shopper and the shopper's actions (Figure 1, Shopper Tracking Module 33a);

an object tracking component to track merchandise as the shopper is shopping (Figure 1, Product Tracking Module 33b);

and

a behavior recognition component for reducing the shopper's actions to events (Statistical Calculation Module 32);

wherein the tracking mechanism generates and updates a list of currently acquired items based on information from the shopper tracking component, the object tracking component, and the behavior recognition component (Figure 6, Database record 100, depicts recording the product position 26, shopper path 22, and pg.6-7, ¶ [0071] discusses the system is configured to detect various shopping behaviors, such as visiting, shopping, and purchasing products, as well as conversions between visiting and shopping, and shopping and purchasing in a particular predefined region 65 of the shopping environment); and

a processor for analyzing (Figure 2, Processor 40, configured to execute analysis program 16).

However, Sorenson fails to disclose providing any discrepancy by the list of currently acquired items.

Otto et al. teaches providing any discrepancy by the list of currently acquired items (pg.5, ¶ [0080] an inventory taken at a given time is compared with the last previous inventory. If a comparison of the inventories indicates an item present in one inventory, and absent in another, a suitable inference is drawn).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the processor of Sorenson to include the ability to draw suitable inferences as taught by Otto et al. in order to gather data on behavior of shoppers in a retail market (Abstract).

As per Claims 14 and 19, Sorenson discloses the monitoring system and method of the claimed invention, wherein the processor analyzes the list of currently acquired items by comparing the list of currently acquired items to a list of purchased items generated at a point of sale (pg.2 ¶ [0028] Purchase records computer 38 is configured to record purchase data 24 from point of sale registers within the shopping environment. The analysis program 16 is configured to link the purchase data 24 with the shopper path data 22 to identify those purchase records that correspond with each shopper path).

As per Claims 15 and 20, Sorenson discloses the monitoring system and method of the claimed invention, wherein the discrepancies comprise shoplifting, sweethearting, vandalism, theft, or combinations thereof (pg.7, ¶ [0079] discusses data for shoplifters tracked through the shopping environment may also be normalized and represented according to standardized shopping environment, and may be created to encompass a predetermined percentage of visit, pause, or steal behavior exhibited by shoplifters The determination that a product has been stolen may be made by analysis of video data, product tags traveling out of shopping environment 14 without being scanned, etc.).

As per Claims 16 and 21, Sorenson discloses the monitoring system and method of the claimed invention, further comprising: a storage device for storing the list of currently acquired items (Figure 6, Database Record 100).

As per Claims 17 and 22, Sorenson discloses the monitoring system and method of the claimed invention, wherein the storage device also stores a history (Figure 2, Database 18).

#### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fallin et al. (2004/0164863) discusses an integrated electronic article surveillance and point of sale system and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashford S. Hayles whose telephone number is 571-270-5106. The examiner can normally be reached on Monday thru Thursday 8:30 to 4:00 Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on (571) 272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/  
Primary Examiner, Art Unit 3687

/A. S. H./  
Examiner, Art Unit 3687